

Montana Water Court  
PO Box 1389  
Bozeman, MT 59771-1389  
(406) 586-4364  
1-800-624-3270  
watercourt@mt.gov

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
GALLATIN RIVER BASIN (41H)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANTS: Peter Zeliff; Terry M. Fluke Revocable Family  
Trust

**CASE 41H-6003-A-2022**

41H 25622-00

41H 25623-00

41H 25624-00

41H 25625-00

**41H 30155788**

**ORDER AMENDING AND ADOPTING MASTER'S REPORT**

Pursuant to Montana Code Annotated, § 85-2-233(5), the above entitled case was assigned to Water Master Julia Nordlund. The Water Master filed a report containing Findings of Fact and Conclusions of Law with the Clerk of Court. Copies of the report were served upon the parties on January 13, 2023. Claimant Peter Zeliff filed an Objection to the Master's Report on January 27, 2023. The comments pointed out the following errors:

Claim 41H 25622-00: The place of use was listed incorrectly in the Master's Report and abstract. POU for this claim should be as follows:

ACRES	QTR	SEC	TWP	RGE	COUNTY
42	S2SW	15	3S	4E	GALLATIN

The claim was only partially severed so Claimant requests a remark be added to indicate this.

Claim 41H 25623-00: The place of use was listed incorrectly in the Master's Report and abstract. POU for this claim should be as follows:

ACRES	QTR	SEC	TWP	RGE COUNTY
58	N2SW	15	3S	4E GALLATIN

The claim was only partially severed so Claimant requests a remark be added to indicate this.

Claim 41H 25624-00: The place of use was listed incorrectly in the Master's Report and abstract. POU for this claim should be as follows:

ACRES	QTR	SEC	TWP	RGE COUNTY
58	N2SW	15	3S	4E GALLATIN

The claim was only partially severed so Claimant requests a remark be added to indicate this.

Claim 41H 25265-00: The Master's Report contains a typographical error in referencing the child claim number incorrectly. The child claim of 41H 25265-00 is 41H 30155788.

The Court has reviewed the Water Master's Findings and Conclusions. Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the January 13, 2023 Master's Report with the corrections listed above, and

**ORDERS** that **Post Decree Abstract of Water Right Claims** be served with this Order to confirm that the recommendations set forth in the Master's Report, as amended by this Order, have been adopted.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Marjorie Black  
578 Concord Drive  
Bozeman, MT 59715

Peter Zeliff  
4655 E Saile Dr  
Batavia, NY 14020

*Potential owners:*  
John E. & Merianne D. Ross  
2190 Gateway South Rd  
Gallatin Gateway, MT 59730-9793

Robert John Mikkelson  
2188 Gateway South Rd  
Gallatin Gateway, MT 59730-9793

*Potential Owners:*  
Carrie Dickerson-Mikkelson  
2230 Gateway South Rd  
Gallatin Gateway, MT 59730-9796

Miranda Ann & Dennis E. Johnson Jr  
2186 Gateway South Rd  
Gallatin Gateway, MT 59730-9793

Melissa Ann Mikkelson  
3737 Sly Rd  
Helena, MT 59602-6045

Benedict W. Fluke  
Edward Scott Fluke  
2900 Gateway Rd S.  
Gallatin Gateway, MT 59730-9705

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
GALLATIN RIVER  
BASIN 41H**

**Water Right Number:** 41H 25622-00 STATEMENT OF CLAIM  
**Version:** 5 -- POST DECREE  
**Status:** ACTIVE

**Owners:** PETER ZELIFF  
4655 E SAILE DR  
BATAVIA, NY 14020

**Priority Date:** JUNE 1, 1883

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 282.74 GPM

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 42.00

**Source Name:** WEST GALLATIN RIVER

**Source Type:** SURFACE WATER

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	
1		SENWNW	22	3S	4E	GALLATIN	
<b>Period of Diversion:</b> APRIL 1 TO OCTOBER 31							
<b>Diversion Means:</b> HEADGATE							
<b>Ditch Name:</b> NOBLE DITCH							
<b>Period of Use:</b> APRIL 1 TO OCTOBER 31							
<b>Place of Use:</b>							
<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>County</u>	
1	42.00		S2SW	15	3S	4E	GALLATIN
<b>Total:</b>		42.00					

THIS WATER RIGHT HAS BEEN PARTIALLY SEVERED FROM THE N2SW OF SECTION 15 T3S R4E.

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
GALLATIN RIVER  
BASIN 41H**

**Water Right Number:** 41H 25623-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** FLUKE, TERRY M REVOCABLE FAMILY TRUST  
2900 GATEWAY S RD  
GALLATIN GATEWAY, MT 59730

**Priority Date:** JUNE 1, 1879

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 112.20 GPM  
FLOW RATE EQUALS 10 MINER'S INCHES.

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 58.00

**Source Name:** WEST GALLATIN RIVER

**Source Type:** SURFACE WATER

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	
1		SENWNW	22	3S	4E	GALLATIN	
<b>Period of Diversion:</b> APRIL 1 TO OCTOBER 31							
<b>Diversion Means:</b> HEADGATE							
<b>Ditch Name:</b> NOBLE DITCH							
<b>Period of Use:</b> APRIL 1 TO OCTOBER 31							
<b>Place of Use:</b>							
<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	58.00		N2SW	15	3S	4E	GALLATIN
<b>Total:</b>		58.00					

THIS WATER RIGHT HAS BEEN PARTIALLY SEVERED FROM THE S2SW OF SECTION 15 T3S R4E.

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
GALLATIN RIVER  
BASIN 41H**

**Water Right Number:** 41H 25624-00 STATEMENT OF CLAIM  
**Version:** 5 -- POST DECREE  
**Status:** ACTIVE

**Owners:** FLUKE, TERRY M REVOCABLE FAMILY TRUST  
2900 GATEWAY S RD  
GALLATIN GATEWAY, MT 59730

**Priority Date:** JUNE 1, 1866

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 224.40 GPM

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 58.00

**Source Name:** WEST GALLATIN RIVER

**Source Type:** SURFACE WATER

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	
1		SENWNW	22	3S	4E	GALLATIN	
<b>Period of Diversion:</b> APRIL 1 TO OCTOBER 31							
<b>Diversion Means:</b> HEADGATE							
<b>Ditch Name:</b> NOBLE DITCH							
<b>Period of Use:</b> APRIL 1 TO OCTOBER 31							
<b>Place of Use:</b>							
<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>County</u>	
1	58.00		N2SW	15	3S	4E	GALLATIN
<b>Total:</b>		58.00					

THIS WATER RIGHT HAS BEEN PARTIALLY SEVERED FROM THE S2SW OF SECTION 15 T3S R4E.

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
GALLATIN RIVER  
BASIN 41H**

**Water Right Number:** 41H 25625-00 STATEMENT OF CLAIM  
**Version:** 5 -- POST DECREE  
**Status:** ACTIVE

**Owners:** FLUKE, TERRY M REVOCABLE FAMILY TRUST  
2900 GATEWAY S RD  
GALLATIN GATEWAY, MT 59730

**Priority Date:** JUNE 1, 1882

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 420.75 GPM

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 58.00

**Source Name:** WEST GALLATIN RIVER

**Source Type:** SURFACE WATER

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	
1		SENWNW	22	3S	4E	GALLATIN	
<b>Period of Diversion:</b> APRIL 1 TO OCTOBER 31							
<b>Diversion Means:</b> HEADGATE							
<b>Ditch Name:</b> NOBLE DITCH							
<b>Period of Use:</b> APRIL 1 TO OCTOBER 31							
<b>Place of Use:</b>							
<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>County</u>	
1	58.00		N2SW	15	3S	4E	GALLATIN
<b>Total:</b>		58.00					

**Remarks:**

SPLIT CLAIM NO. 41H 30155788 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
GALLATIN RIVER  
BASIN 41H**

**Water Right Number:** 41H 30155788 STATEMENT OF CLAIM

**Version:** 1 -- ORIGINAL RIGHT

**Status:** ACTIVE

**Owners:** PETER ZELIFF  
4655 E SAILE DR  
BATAVIA, NY 14020

**Priority Date:** JUNE 1, 1982

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 56.10 GPM

**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 42.00

**Source Name:** WEST GALLATIN RIVER

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENWNW	22	3S	4E	GALLATIN

**Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Ditch Name:** NOBLE DITCH

**Period of Use:** APRIL 1 TO OCTOBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	42.00		S2SW	15	3S	4E	GALLATIN

**Total:** 42.00

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**Remarks:**

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 41H 25625-00.